

Docket No. 9542.18426-CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Macoviak et al.
 Serial No.: 10/695,433
 Filed: 28 October 2003
 For: Methods and Devices for Heart Valve Treatments

Group Art Unit: 3738
 Examiner: Unknown



Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

26308

PATENT TRADEMARK OFFICE

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN
 THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION
 (37 CFR 1.97(b))**

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75; and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION
 DISCLOSURE STATEMENT**

The information disclosure statement submitted herewith is being filed WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST. 37 CFR 1.97(b).

NOTE "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING.

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATE OF MAILING (37 CFR 1.8(a)) or (37 CFR 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below as First Class Mail in an envelope addressed as follows: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Mary Szollar
 Type or print name of person mailing paper

Date: 16 June 2005


 (Signature of person mailing paper)

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 16 June 2005

Reg. No. 29,243

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Signature of Attorney of Record

Daniel D. Ryan

Type or Print Name of Attorney of Record

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IDS 6

LIST OF PRIOR ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i>		ATTY DOCKET NO. 9542.18426-CON	SERIAL NO. 10/695,433
		APPLICANT Macoviak et al.	IDS # 6
Customer No. 26308		FILING DATE October 28, 2003	GROUP 3738
			1/1

JUN 21 2005
U.S. PATENT AND TRADEMARK OFFICE
RECEIVED

U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	4,056,854	08 Nov 77	Boretos et al.			
	4,994,069	19 Feb 91	Ritchart et al.			
	5,370,685	06 Dec 94	Stevens			
	5,545,241	13 Aug 96	Vanderauwera et al.			
	5,776,189	07 Jul 98	Khalid			
	5,855,601	05 Jan 99	Bessler et al.			
	6,102,932	15 Aug 00	Kurz			
	6,312,464	06 Nov 01	Navia			
	6,338,735	15 Jan 02	Stevens			
	6,338,740	15 Jan 02	Carpentier			
	2002/0032481	14 Mar 02	Gabbay			
	2002/0065554	30 May 02	Streeter			
	6,419,695	16 Jul 02	Gabbay			
	6,440,164	27 Aug 02	DiMatteo et al.			
	2002/0129820	19 Sep 02	Ryan et al.			
	2003/0040792	27 Feb 03	Gabbay			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant.
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